IN THE HIGH COURT OF UTTAANCHAL AT NAINITAL

Writ Petition No. 226(M/B) of 2006

Uttaranchal Ratna Dr. Shivanand Nautiyal Foundation,
(A Society registered under the Societies Registration Act, 1860) having its Uttaranchal Headquarter at C – 58, Nehru Colony, through its President Sri Divya Nautiyal.

…….Petitioner.

Versus

1. The presiding, India Red Cross Society, Uttaranchal (The Governor of the province is the ex-office President), A body incorporated under the Indian Red Cross Society Act, 1920, Raj Bhawan, Dehradun, Uttaranchal
2. The Director General, Medicine Health & Family Welfare, Ministry of Health, Government of Uttaranchal, Civil Secretariat, Dehradun (Society, State Red Cross Society, Uttaranchal)
3. The Indian Red Cross Society, a body incorporated under Act XV of 1920, having its office at 1-Red Cross Road, New Delhi, through its Secretary General

…….Respondents

Sri Pankaj Agnihotri, learned counsel for the petitioner.
Learned standing counsel for the respondent No. 2.

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: March 08, 2006

By means of this writ petition, the petitioner has prayed for writ of mandamus commanding the Respondent Nos. 1 and 2 to call all the life members and patrons in the constituent meeting after issuing adequate notice in this regard and further a direction commanding the Respondent Nos. 1 and 2 to constitute the Managing Committee of IRCS, in the State of Uttaranchal in presence of life members, patrons and vice patrons including the members enrolled by the petitioner, who may elect the office bearers as per the 2004 rules and direct the Respondent No. 3 to supervise the constitution of the Managing Committee of IRCS in Uttaranchal.

2. In the writ petition, no averment has been made as to how the petitioner's society is an instrumentality of State within the meaning of Article 12 of Constitution of India. The only statement made in Para 3 and 4 of the writ petition is that the petitioner is a society registered under the Societies Registration Act, 1860 and in para-4, it is stated that the Indian Red Cross Society is a statutory body incorporated under the Indian Red Cross Society Act, 1920 (Act XV of 1920), which has State/Union Territory as well as District Branches. It has further been stated that in exercise of powers under Section 5 of the Act (as amended by Act 22 of 1956 and the adaptation of laws order of 1957 and the Act No. 14 of 1992) rules for Station/Union Territory/Distt. Branches have been framed which have been duly approved by the Managing Body in the meeting held on 15.09.2004. Since the petitioner is a statutory body, it comes within the ambit of State as provided under Article 12 of the Constitution of India.

3. It has not been stated anywhere in the writ petition as to how it is an instrumentality of State as provided under Article 12 of the Constitution of India as per various decisions laid down by the Hon'ble Apex Court in a series of judgment.

4. Learned counsel for the petitioner could not convince us as to how it is an instrumentality of State within the meaning of Article 12 of the Constitution of India. Therefore, a writ as prayed for cannot be granted in a petition under Article 226 of the Constitution of India.

5. For the reasons recorded above, the writ petition is dismissed in limine. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang